

CITY OF SUNNYVALE REPORT Administrative Hearing

April 26, 2006

SUBJECT:

Motion

2006-0311- Lenga Nguyen [Applicant] Dat Tat Phan and

Lenga Nguyen [Owners]: Application for a 6,000 square foot site located at **545 East Arques Avenue** (near Lastreto Ave) in an R-3 (Medium-Density Residential) Zoning District.

Variance from Sunnyvale Municipal Code section 19.34.030

to allow a minimum side yard setback of 5 feet 9 inches instead of the required 6 feet, and a total side yard setback

of 13 feet 6 inches instead of the required 15 feet.

REPORT IN BRIEF

Existing Site

Existing one-story residence

Conditions

Surrounding Land Uses

North

Single-Family Residential

South

Central Expressway

East

Single-Family Residential

West

Single-Family Residential

Issues

Justifications for a Variance

Environmental

Status

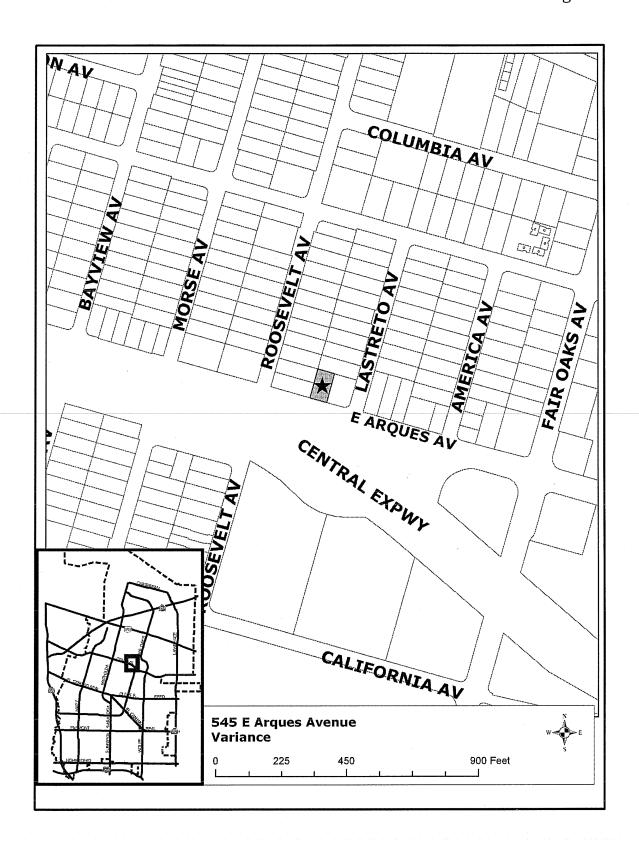
A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City

Guidelines.

Staff

Deny Variance

Recommendation



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Residential Medium Density	Same	Residential Medium Density
Zoning District	R-3	Same	R-3
Lot Size (s.f.)	6,000	Same	8,000 min.
Gross Floor Area (s.f.)	1,917	2,002	2,700 max. without PC review
Lot Coverage (%)	32.0%	33.4%	45% max. (for a one-story)
Floor Area Ratio (FAR)	32.0%	33.4%	45% max. without PC review
No. Buildings On-Site	1	Same	
Building Height (ft.)	14' 6"	Same	30' max.
No. of Stories	1	Same	2 max.
Setbacks (Facing Prope	erty)		
Front	20'	Same	20 min.
Left Side	7' 9" (13' 6")	Same, increasing non-conformity	6' min. (15' total)
Right Side	7' 9" (13' 6")	Same	6' min. (15' total)
Rear	22' 8"	Same	20 min.
Parking			
Total Spaces	4	4	min.
Standard Spaces	lard Spaces 2 2		min.
Covered Spaces 2		2	min.

Starred items indicate deviations from Sunnyvale Municipal Code requirements.

ANALYSIS

Description of Proposed Project

The applicant is proposing an addition of 85 square feet to an existing 1,917 square foot single-story residence, so the house will total 2,002 square feet when completed. The existing home has three bedrooms, a family room, living room, kitchen, and two-car garage. The scope of the project is to expand the living room forward, toward the street. The proposed addition would continue





along the existing line of the wall an additional 4 feet into the front yard, before jogging in to create a window box effect that protrudes an additional 2 feet forward, but behind the required front yard setback.

The existing structure is legal non-conforming with regard to the total side yard setback. The structure has a total side yard setback of 13 feet 6 inches where 15 feet is required by the Sunnyvale Municipal Code (SMC) section 19.34.030. The applicant is requesting that the addition continue along the existing wall, increasing the existing non-conformity.

Background

The subject site is located in a single-family residential neighborhood which is zoned primarily Low-Medium Density Residential (R-2). From the subject site eastward along Arques, the properties are zoned Medium Density Residential (R-3), despite many of the properties not meeting the minimum R-3 requirements, including lot width.

The subject was constructed in 1976. The construct dates for houses in the vicinity of the subject site range from 1930s to the 1950s.

Previous Actions on the Site: A Variance was approved for the subject site and the neighboring site (549 E. Arques) in 1976 for a reduced lot width. The subject site is 60 feet wide, which is only half of the 120 linear feet required by the City Code.

Environmental Review

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions. Class 1 Categorical Exemptions include modifications to existing structures.

Variance

Surrounding Area: The subject site is located in a residential area that is bounded to the south by Central Expressway. The lots in the area are zoned either R-2 (Low-Medium Density Residential) or R-3 (Medium Density Residential) with a range of one to three dwelling units per lot. The R-2 lots are primarily 7,000 square feet with lot widths of 50 linear feet. The SMC requirements for R-2 lots include a minimum lot size of 8,000 square feet and a minimum lot width of 76 linear feet (for interior lots). Attachment D includes an Assessor's Map of the surrounding area, including an indication of the variation in zoning.

The SMC minimum requirements for R-3 lots (such as the subject site) are 8,000 square feet for lot size and a lot width of 120 linear feet (for interior lots). The R-3 lots located near the subject site along Arques vary as noted in the following table.

Property Address	Lot Widths (feet)	Lot Size (square feet)
545 Arques (subject site)	60	6,000
549 Arques	74	7,314
555 Arques	48	7,200
559 Arques	48	7,200
563 Arques	44	6,600
565 Arques	90	8,984
569 Arques	50	5,000
Average	59 ft.	6,900 sq. ft.

Site Layout: The site has a house and attached garage situated in the center of the lot. Viewed from the street, the garage is the more prominent feature as it is at the 20 foot setback and the living area is recessed an additional 15 feet from the street. The existing structure in total conforms to or exceeds current front and rear yard setback requirements as well as minimum side yard requirements for one side. However, the existing structure is considered to be legal, non-conforming with the Municipal Code as it does not meet the total side yard setback requirements (see Attachment E).

The lot width of 60 linear feet of the subject site is less than the 120 feet minimum designated by the Municipal Code, although it conforms to the existing average lot width of the R-3 lots along this section of Arques Avenue. In addition, the average lot with for the neighboring R-2 lots is 50 linear feet.

The 6,000 square foot lot size of the subject site is less than the SMC requirements of 8,000 square feet and less than the average of 6,900 square feet for the neighboring R-3 lots along Arques Avenue.

The proposed addition seeks to enlarge the 192 square foot living room to accommodate the need for a larger family and guest space. The applicant has sought to address the increased setback requirement, in part, by designing a bay window effect with the front two feet of the proposed addition. Thus, only four feet of additional non-conforming setback is requested, rather than the full six feet.

Architecture: The proposed addition will replace the existing wood siding with stucco material, and include a re-roofing of the house to replace the existing with new composite shingle.

The following Guidelines from the Single-Family Design Techniques were considered in the analysis of the project architecture:

Design Policy or Guideline (Architecture)	Comments
2.2 Basic Design Principles Respect	The addition would occur be a minor
the scale, bulk, and character of	addition to the existing structure and
homes in the adjacent neighborhood.	would be compatible with the surrounding neighborhood.
3.1 Design Techniques	
Design homes to respect their	
immediate neighbors.	

Parking: As required by Sunnyvale Municipal Code, the site provides a two-car garage and two uncovered parking spaces.

Compliance with Development Standards/Guidelines: The site currently meets all standard requirements for the R-3 Zoning District, with the exception of the total side yard setback. The requested Variance would allow an exception to the total side yard setback requirement (13 feet 6 inches where 15 feet is required) for a total of four additional feet.

Expected Impact on the Surroundings: The proposed addition would have a minimal impact on the surrounding neighborhood. If the Variance is approved, a precedent would be set that may increase Variance requests in the neighborhood; however, staff does not believe this scenario would come to fruition. The addition to the living area would result in a small enhancement to the streetscape in that it would balance the visual impact of the existing garage.

Public Contact

Staff received one telephone call from the relative of a neighbor of the subject site who wanted additional information on the scope of the project; no support or opposition to the project was expressed.

Notice of Public Hearing	Staff Report	Agenda
 Published in the Sun newspaper Posted on the site 6 notices mailed to adjacent property owners and residents of the project site 	 Posted on the City of Sunnyvale's Website Provided at the Reference Section of the City of Sunnyvale's Public Library 	 Posted on the City's official notice bulletin board City of Sunnyvale's Website Recorded for SunDial

Conclusion

Applicant's Justification: The applicant has addressed the three required findings for a Variance in Attachment C – Applicant's Letter of Justification. The applicant contends the following:

- The size and shape of the lot is different from neighboring lots.
- The proposed addition would not have a negative impact on the neighbors.
- There are no homes located across the street (Central Expressway).

Discussion: Staff is able to make the first Variance Finding regarding exceptional conditions that apply to this property due to the parcel's size given the previously approved Variance for the sub-standard lot width. Even if the R-2 standard is applied, given that the subject site is a single-family home, the standard lot width of 76 feet for an R-2 lot exceeds the existing lot width of 60 by 16 feet. If the lot width met the minimum standards, the Variance would not be necessary.

Staff is able to make the second Variance Finding that granting the application will not be materially detrimental to the public welfare. Staff believes the addition will not impact the neighborhood in any measurable sense.

Staff cannot make the third Finding that granting the Variance will not grant a special privilege not enjoyed by other surrounding property owners. Approving this request would allow a significant majority of the homes in the neighborhood to make the same findings for reducing the front yard setback, due to similar parcel sizes, lot width, and siting of homes.

However, a precedence for setback Variances within the vicinity of the site may have already been set. The following table shows all Variance applications submitted to the City in the neighborhood. All of the following were approved.

Property Address	Date	Variance Description
325 Arques	1/30/1980	Reduced second-story setback for addition
305 Arques	8/11/1978	Reduced setback (corner lot)
332 Lastreto	1/14/1981	Front and side yard setbacks
389 Lastreto	8/24/1970	Side yard setbacks
243 Roosevelt	6/29/1983	Side yard setback
306 Roosevelt	7/12/1965	Rear and side yard setbacks
324 Roosevelt	5/25/1964	Side yard setback

There are also residences in the area that do not conform to current SMC setbacks. Most of these nonconforming setbacks were created when the homes were initially constructed in the 1930s or 1950s. These non-conforming setbacks are a part of the original building that took place under the Municipal Code at that time.

It is of note that requiring the addition to have an increased side yard would result in unevenly configured living room. While the rear yard has sufficient are for an addition to the home, creating the desired additional family and guest space in the rear of the home would require a complete reconfiguration of the existing home.

Findings: Staff is recommending denial for this application because the third Finding (Attachment A) could not made. However, if the approving authority is able to make the required findings, staff is recommending the Conditions of Approval (Attachment B) for the project be attached to the approval.

Alternatives

- 1. Deny requested Variance
- 2. Approve the application with attached conditions
- 3. Approve the application with modified conditions

Recommendation

Alternative 1.

Prepared by:

Jamie McLeod Project Planner

Reviewed by:

Andréw Miner Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Applicant Letter of Justification
- D. Assessor Parcel Map
- E. Site and Architectural Plans

Recommended Findings - Variance

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district.

Staff is able to make this Finding because the site has a substandard lot width, which was approved through a 1976 Variance. Even if the R-2 lot width standard is applied, the lot width is still sub-standard and does not allow for the minor addition that would otherwise meet zoning standards.

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements, or uses within the immediate vicinity and within the same zoning district.

Staff is able to make this finding because approving this request would not be detrimental to the neighborhood.

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.

Staff is not able to make this Finding because approving this request may allow a significant number of homes in the neighborhood to make the same findings for expansion of the home, due to similar substandard parcel sizes.

Recommended Conditions of Approval if the Variance is Granted.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

- A. The Variance shall be null and void two years from the date of approval by the final review authority if the approval is not exercised.
- B. Project shall be in conformance with the plans approved at the public hearing. Minor changes may be approved by the Director of Community Development; major changes may be approved at a public hearing.
- C. The Conditions of Approval shall be reproduced on the front page of the plans submitted for a Building permit for this project.
- D. Obtain building permits for the proposed plan.

2. DESIGN/EXTERIOR COLORS AND MATERIALS

- A. Final exterior building materials and color scheme are subject to review and approval by the Director of Community Development prior to issuance of a building permit.
- B. Roof material shall match the existing home or if replaced entirely, be 50-year dimensional composition shingle or equivalent warranty material providing texture and shadow effect, or as approved by the Director of Community Development.

VARIANCE JUSTIFICATIONS

Justifications must be submitted by the applicant with all Variance applications. Use this sheet or a separate sheet of paper to complete all of the three statements below.

In granting a Variance, all of the following justifications must be made by the Planning Commission or the Administrative Hearing Officer:

19.84.050. Findings.

- (a) A Variance from the requirements of this title, except for the height of a ground sign, shall be approved only upon a showing by the applicant that:
- 1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district.
- Our house is located in R3 zone, which requires 15 from set bade. The existing house has 13-2" set bade therefore our addition on the front doesn't meet the requirement of the R3 zme.

The lot size of our house compare with the neigh of the zone is quite small lot and the shape of the lot is different with neight.

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the

property, improvements or uses within the immediate vicinity and within the same zoning district.

addition, the neighbor of the planned extension is the badeyard and the extension will not could any proplem to our neighbor

3. Upon granting of the Variance the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.

our house located on the road with house on the opposite side

If you need assistance in answering any of these justifications, contact the Flanning Division staff at the One Stop Permit Center.

